

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LEONARD LAMONT STEWART,

Defendant-Appellant.

UNPUBLISHED

April 15, 1997

No. 187303

Saginaw Circuit Court

LC No. 94-010039-FC

Before: Cavanagh, P.J., and Reilly and White, JJ

PER CURIAM.

Defendant appeals as of right his convictions and sentences for possession with intent to deliver 650 or more grams of cocaine, MCL 333.7401(1)(a)(1); MSA 14.15(7401)(2)(a)(1), and conspiracy to possess with intent to deliver over 650 grams of cocaine, MCL 750.157a(a); MSA 28.354(1)(a). We affirm.

Defendant need not have actual possession of a controlled substance for conviction under MCL 333.7401; MSA 14.15(7401); constructive possession – shown by the defendant's dominion or control over the contraband – is sufficient. *People v Konrad*, 449 Mich 263, 271; 563 NW2d 517 (1995). In order to have dominion or control of a controlled substance, “a defendant ‘need not have them literally in his hands or on premises that he occupies but he must have the right (not the legal right, but the recognized authority in his criminal milieu) to possess them, as the owner of a safe deposit box has legal possession of the contents even though the bank has actual custody.’” *Id.*, quoting *United States v Manzella*, 791 F2d 1263, 1266 (CA 7, 1986).

Defendant argues that there was insufficient evidence at trial to sustain his convictions because there was no showing that he exercised dominion or control over the cocaine. However, testimony from alleged accomplices would justify a rational trier of fact in concluding that defendant had arranged for a shipment of cocaine, and that defendant had dominion or control of the cocaine after it arrived at an accomplice's house. Defendant also contends that there was no evidence showing that he intended to distribute the cocaine. However, testimony from one of the police officers involved in the

investigation, to the effect that the amount of cocaine that was found in the package and its shipment to a “safe home” rather than defendant's own residence indicated that it was meant for redistribution, would justify the conclusion that defendant had the intent to distribute the cocaine.

Defendant also argues that the statutorily-mandated sentences imposed by the court, two consecutive life terms without possibility for parole, constitute cruel and unusual punishment. We disagree. A life sentence without the possibility of parole for possession with intent to deliver over 650 grams of cocaine and conspiracy to commit the same does not constitute cruel or unusual punishment under the Michigan constitution. *People v Lopez*, 442 Mich 889; 498 NW2d 251 (1993).

Affirmed.

/s/ Mark J. Cavanagh
/s/ Maureen Pulte Reilly
/s/ Helene N. White